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PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional) RSW9 2000 0107 US1
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<p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a notice of appeal.</p> <p>The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.</p>		
<p>I am the</p> <p><input type="checkbox"/> applicant/inventor.</p> <p><input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)</p> <p><input checked="" type="checkbox"/> attorney or agent of record. Registration number <u>44,032</u></p> <p><input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____</p>		 <p>Signature</p> <p><u>Gregory S. Bernabeo</u></p> <p>Typed or printed name</p> <p><u>215-923-4466</u></p> <p>Telephone number</p> <p><u>12/17/07</u></p> <p>Date</p>
<p>NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.</p> <p><input type="checkbox"/> *Total of <u>1</u> forms are submitted.</p>		

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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ARGUMENTS FOR WHICH REVIEW IS REQUESTED

Claim 1 - Independent claim 1 is directed to a computer-implemented method of rebalancing a portfolio of assets to achieve optimality. Claim 1 recites:

transmitting to a customer an alert message for alerting an imbalance status of a customer's portfolio, and a list comprising at least one recommended rebalancing transaction.

As the basis for rejecting claim 1, the Action states that this is disclosed by Jones, stating "Jones teaches a plan monitoring model that transmits alerts – col. 27, lines 50-55." This section of Jones states:

[w]hen one or more new financial products become available to the user, the user may be alerted by the plan monitoring module 350 if, for example, a higher expected return may be possible at lower risk as a result of diversifying the current portfolio to include one or more of the newly available financial products. Jones, col. 27, lines 50-55.

While Applicants agree that Jones discloses alerting the user in some manner, Applicants traverse that Jones teaches or suggests the claimed transmission of "an alert message . . . and a list comprising at least one recommended rebalancing transaction." It is entirely consistent with the disclosure of Jones that Jones' alert may simply provide notice of availability of a new financial product, or arguably of a need for rebalancing of a portfolio. For example, such an alert in Jones may be "ALERT – shares of new financial product XYZ Mutual Fund are now available for purchase." However, there is no teaching or suggestion in Jones (or Bove) of transmission of a list identifying a recommended rebalancing transaction, e.g. a specific recommended transaction such as "sell 500 shares of your Exxon stock."

Additionally, claim 1 recites "each recommended rebalancing transaction comprising asset information identifying a specific asset, quantity information identifying a specific number of units of the specific asset, and transaction information comprising one of a buy instruction and a sell instruction." Thus, claim 1

requires that specific parameters of each recommended rebalancing transaction are identified in the alert message sent to the customer. Accordingly, each recommended rebalancing transaction and the necessary trading parameters are identified with specificity by the system - e.g., SELL, 500 shares, EXXON stock, and viewable by the customer within the alert message, which permits the customer to provide a single mouse click or other response to rebalance his portfolio by having the listed transactions executed. There is no teaching or suggestion in Jones (or Bove) of transmission of a list identifying a recommended rebalancing transaction that comprises "asset information identifying a specific asset, quantity information identifying a specific number of units of the specific asset, and transaction information comprising one of a buy instruction and a sell instruction."

Applicants submit that the rejection is based upon information gleaned from applicant's disclosure, namely, information relating to inclusion of a list of one or more specific recommended rebalancing transactions that may be accepted and initiated by a single response, such as a mouse click. Neither Bove nor Jones, alone or in combination, teaches or suggests "transmitting . . . a list comprising at least one recommended rebalancing transaction" that identifies the recited asset information.

Claim 2 - Claim 2 further recites that the transmitting of the alert message "is performed via a first customer-defined communications method." In other words, the customer selects/specifies a communications method. The Examiner acknowledges that this is not disclosed by Bove, but asserts that this is disclosed by Jones. Applicants respectfully disagree. While Jones discloses that an "alert may be displayed during a subsequent user session with the financial advisory system 100 and/or the alerts may be transmitted immediately to the user by telephone, fax,

email, pager, fax, or similar messaging system" (col. 28, lines 30-38), Jones does not disclose that the particular method used to contact a customer is defined by that customer; in other words, the method used in Jones may be defined by the system, on a per-system basis, for all users. This is not what is claimed.

Claim 3 - Claim 3 further recites "automatically retransmitting the alert message . . . to the customer via a second customer-defined communications method if the step of transmitting via the first communications method was not successfully executed." The cited art lacks any teaching of automatically retransmitting an alert message to the customer via a secondary method if the step of transmitting via the first communications method was not successfully executed. In rejecting claim 3 over Jones, the Action states, at page 4:

Jones teaches that the alert may be displayed during a subsequent user session – col. 28, lines 30-38. This section of Jones states:

In addition, the system may recommend a reallocation to improve efficiency of the portfolio. An alert may be generated to notify the user of the advise and/or need for affirmative action on his/her part. As described above, the alert may be displayed during a subsequent user session with the financial advisory system 100 and/or the alerts may be transmitted immediately to the user by telephone, fax, email pager, fax, or similar messaging system (emphasis added). Col. 28, lines 29-37.

By way of example, it is entirely consistent with this disclosure of Jones that the system's recommendation/alert may be "AFFIRMATIVE ACTION REQUIRED – REALLOCATION RECOMMENDED TO IMPROVE EFFICIENCY OF YOUR PORTFOLIO." This alert may be displayed during a user session with the system after the alert condition occurs. The alert may also, or instead, be transmitted to the user in a variety of manners. In any event, this is not a teaching of suggestion of transmitting the claimed alert message by a first customer defined communications

method (e.g., by telephone), and then automatically retransmitting the alert message by a second customer defined communications method (e.g., by e-mail) if the step of transmitting via the first communications method was not successfully executed.

This use of a second communication method if the first communication method is unsuccessful helps ensure that the user receives the alert in a timely manner. Jones merely discloses that a single alert may be sent by any one of several different methods. Applicants respectfully submit that the rejection is based upon information gleaned from applicant's disclosure. Neither Bove nor Jones, alone or in combination, teaches or suggests these claim recitations.

Claim 4 - Claim 4 recites that the customer's response constitutes performing a single action by the customer. This is not analogous to use of the Auto Rebal button, as discussed above. Further, claim 4, read in conjunction with claim 1, relates to "receiving from the customer a single response to the transmitted alert message; and automatically implementing the list comprising at least one recommended rebalancing transaction based on the received customer's response to cause execution of each recommended rebalancing transaction." This is simply neither taught nor suggested by Bove and/or Jones; neither Bove nor Jones teaches transmission of an alert message and execution of transactions listed in an alert message based on the customer's response to the alert message.

Claim 10 - Claim 10 recites that the customer's response that results in automatic implementation of the list of rebalancing transactions is "contained in a return e-mail from the customer, wherein the return e-mail includes a transaction number identifying the list of recommended rebalancing transactions." This is neither taught

nor suggested by the cited art. The Action's reliance on Jones' teaching that the alert transmitted by the system may be displayed using telephone, fax, email, pager, fax or similar messaging system (see page 4 of the Final Action) is inapposite.

Claim 11 - Claim 11 recites that the customer's response is received on paper and includes an optical code for retrieving the list of recommended rebalancing transactions. Jones is devoid of any disclosure involving such an optical code. This is neither taught nor suggested by the cited art. The Action's reliance on Jones' teaching that the alert transmitted by the system may be displayed using telephone, fax, email, pager, fax or similar messaging system is inapposite.

Claims 16-28 - Claim 16 recites a second unit for transmitting the alert message and the list of a plurality of recommended rebalancing transactions to the customer, receiving a single response of the customer to the transmitted alert message, and automatically implementing the list of multiple transactions based on the received customer's response. Thus claim 16 is patentable for reasons similar to those set forth above for claim 1. Claims 17-28 are patentable for similar reasons.

Claims 29-31

Independent claim 29 includes recitations similar to those of claim 1, particularly with respect to the single response and automatic performance of predetermined transactions in response to the single response, and is likewise patentable. Claims 30 and 31 are patentable for similar reasons.

Reconsideration and withdrawal of the rejections of claims 1-31 are requested respectfully.